Instructions regarding judicial/quasi-judicial orders

Government of Maharashtra
Law and Judiciary Department
Government Circular No.: 521-2016/Misc/E

Madam Cama Road,
Hutatma Rajguru Chowk,
Mantralaya, Mumbai-400 032
Date: 10th November, 2016

CIRCULAR

Hon'ble Maharashtra Administrative Tribunal, at Aurangabad had while disposing of the Original Application bearing No. 360/1998 and connected matters by a common order dated 04-07-2011, directed the respondents to consider all the applicants for regularization/appointment as MPHWs (Multi-purpose Health Workers) in the light of the Government Resolutions dated 27-05-1997 & 17-09-1997.

The decision was directed to be taken within a period of four months from the date of the order to be communicated to the applicants in writing, with further liberty to the applicants to approach the Tribunal if aggrieved by the decision of the respondents.

Alleging non-compliance of the above directions contempt proceedings came to be initiated against the respondents. The Principal Secretary, Public Health Department, the Joint Director, Health Services (M & F), and the In-charge District Malaria Officer, Aurangabad were also impleaded as party respondents in the contempt proceedings bearing Miscellaneous Application No. 173/2015 in C.A. No. 1 to 14/2012 & 118/2014 in O.A 787/1995 & Others.

In the aforesaid contempt proceedings the Hon'ble Tribunal took a serious view of the matter, and on 19-08-2016 passed the following order:

20. "…….The position which brooks no dispute is that a judicial and in the context a quasi-judicial order which, as in this case, had become final and conclusive could not be questioned by those whose duty it is to implement it. The judicial determination binds them and they must implement it with dispatch, urgency and sincerity. If they were not satisfied with the decision in the OAs the only way open to them was to question it before the Hon'ble High Court and Hon'ble Supreme Court. No other authority howsoever highly placed could have scrutinized its judicial accuracy. G.A.D., Law and Judiciary etc are all the various organales of the same larger body i.e. the State. They are as much bound by the judicial and quasi-judicial orders as any other authority.

21. If the authorities, therefore, thought that they had any option whether to or not to implement the order in the OAs, then they have to be blamed and even hauled-up for contempt. It needs to be clearly understood that a stand is never to be taken that in a conclusive and binding order, judicial or quasi-judicial order, the various departments are mulling on whether to implement it and how. That is quite clearly unacceptable. Once a conclusive and binding judicial or quasi-judicial order stands, then it has to be complied with and complied with expeditiously. All the various Government Departments must note this point quite carefully. Ultimately, to turn around and say that the order has

anyhow been complied with, after a few years is no answer to the main question………

22. We are quite clearly of the view that the Chief Secretary, State of Maharashtra must bring to the notice of all concerned under his control these observations. It must serve as a guidance to avoid delay and multiplicity of proceedings. It needs to be emphasized that the employees in whose favour the binding final judicial or quasi-judicial orders are made, after-all are not Government's adversaries. On practical aspect, the state of affairs is as discussed above. Therefore, pointless dragging of feet serves the purpose of none. The consequences of contempt action are unpleasant and unnecessary. They must be avoided. We have on a few occasions directed copies of our orders in other OAs forwarded to the Chief Secretary. But we have not got even an acknowledgement far less compliance report. But this is a momentous matter. The Chief Secretary is requested not only to comply but report compliance to us within three months from today. The Registrar of this Tribunal shall report to us the non-compliance after the period of three months from today."

In view of the aforesaid directions of the Hon'ble Tribunal, all the Additional Chief Secretaries / Principal Secretaries / Secretaries and Head of the Departments/ Organizations are hereby instructed to download a copy of the aforesaid order of the Tribunal from the website ***https://mat.maharashtra.gov.in*** and carefully note the observations of, and appreciate concerns expressed by, the Hon'ble Tribunal and ensure the compliance of the order as expected.

It is further directed that once the final and conclusive judicial or quasi-judicial order is passed then it is binding and has to be strictly complied with expeditiously in its letter and spirit unless stayed, varied, reversed or set aside by the superior Court / Forum.

The Additional Chief Secretaries / Principal Secretaries / Secretaries and Head of the Departments / Organizations are also instructed to bring the aforesaid directions of the Hon'ble Tribunal to the notice of all concerned officers under their control so as to ensure compliance thereof.

A deliberate non-compliance of judicial or quasi-judicial order, without the same being challenged in the Superior Court or Forum, in accordance with the prescribed procedure, would be viewed seriously.

This Government circular of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference no. for this is 201611101604427312. This order has been signed digitally.

By order and in the name of the Governor of Maharashtra.

Swadheen S Kshatriya

Digitally signed by Swadheen S Kshatriya
DN: c=IN, o=All India Service, ou=Chief Secretary, postalCode=400032, st=Maharashtra, cn=Swadheen S Kshatriya
Date: 2016.11.11 10:43:49 +05'30'

(S. S. Kshatriya)
Chief Secretary
Government of Maharashtra

Copy to:

1. The All Additional Chief Secretaries, Maharashtra State, Mantralaya, Mumbai.
2. The All Principal Secretaries/Secretaries, Mantralaya, Mumbai.
3. The Deputy Secretary to the Hon'ble Chief Secretary, Mantralaya, Mumbai.